

## **POLICY STATEMENT: Preamble**

### **SUMMARY**

The TIN Policy Directive requires Federal payment certifying officials to include a valid Taxpayer Identifying Number (TIN) on all Federal payment vouchers certified to Treasury for payment, except in specific limited circumstances.

### **BACKGROUND**

Section 31001 (d)(2) of the Debt Collection Improvement Act of 1996 (DCIA), codified at 31 U.S.C. 3716 (c), requires Federal disbursing officials to offset an eligible payment to a payee to satisfy a delinquent non-tax debt owed by the payee to the government, a process known as “offset”. Under regulations implementing this statute, a Federal disbursing official should conduct such an offset when the name and Taxpayer Identifying Number (TIN) of a payee match the name and TIN of a delinquent debtor. Section 31001(y) of the DCIA, codified at 31 U.S.C. 3325(d), requires agencies to include the TIN of each payee on certified payment vouchers which are submitted to a disbursing official. Providing TINs on payment vouchers is necessary to carry out offset and vendor income reporting.

The Taxpayer Relief Act of 1997, enacted subsequent to the DCIA, included a provision that provides for the continuous levy of Federal non-tax payments to collect delinquent tax debts. Continuous levy will be implemented by the Financial Management Service (FMS) through a process similar to that of offset, and, accordingly, TINs on payment certifications are also required to implement this program.

Pursuant to 31 U.S.C. 3325(a), FMS is responsible for determining that payment vouchers certified to Treasury are in correct form. To ensure that agencies submit payment vouchers in a proper form which includes TINs, FMS issued a Policy Statement in the Federal Register on October 9, 1998, requiring agencies to prepare and submit implementation reports to FMS documenting compliance with the TIN requirement and identifying barriers to providing TINs.

FMS required these reports to determine compliance, evaluate the effectiveness of proposed agency compliance strategies, identify barriers to TIN collection, determine if any circumstances prohibited use of TINs on payment vouchers, and formulate guidance to assist agencies in overcoming barriers impeding the collection and providing of TINs.

### **IMPLEMENTATION REPORT FINDINGS**

A summary of these reports indicates a number of barriers that prevent agencies from collecting or providing TINs and also identifies strategies, methods, and practices which are being used to improve the collection of this information.

### ***Barriers to Collecting TINs***

The implementation reports indicate that legal barriers remain which prevent agencies from collecting TINs. For example, the U.S. Marshals Service (USMS) reported that there were circumstances when court-ordered payments must be made, regardless of whether it had received a TIN. There may be other circumstances when agencies lack the statutory authority to require TINs from certain payment recipients.

Several agencies noted that certain payment recipients are unable to obtain a TIN, such as foreign vendors, illegal aliens and other government agencies. Agencies also reported that collecting TINs for one-time payments was economically prohibitive, such as payments associated with the taking of the census. Agencies also reported incidents when payment recipients submitted an invalid or improper TIN.

Law enforcement agencies wrote that collecting TINs from payment recipients may have a detrimental effect on federal, state, or local law enforcement operations. There were also circumstances when it was necessary for these agencies to pay an indigent fact witness, without the submission of a TIN, in order to facilitate law enforcement.

Several agencies reported that certain vendors refused to submit their TINs, despite repeated requests. Many vendors were unaware that they had TINs and therefore refused to submit this information.

In addition to these barriers, several agencies felt that it was unnecessary to collect TINs from recipients who were exempt from the Treasury Offset Program (TOP). Although some payments are exempt from the TOP, these payments may not be exempt from levies to collect tax debts. As a result, agencies should collect TINs for all payments.

### ***Barriers to Providing TINs to FMS***

Law enforcement agencies identified circumstances when providing TINs to FMS would substantially harm their programs, such as providing TINs when paying undercover agents or informants.

### ***No Exceptions for Vendor Payments***

In general, agencies were more successful in collecting TINs from individual payment recipients than from government vendors. FMS received several comments from agencies citing a need for an exception in those circumstances when a vendor refused to submit a TIN. A few agencies indicated that there are geographic regions so remote that an agency had to do business with the vendor, even if the vendor refused to submit a TIN.

While exemptions are available in some circumstances for vendor payments, this Policy Directive contains no specific exceptions for the collection of TINs from vendors as a class of payments. It is important that Federal government vendors be subject to TOP since payments made to vendors represent the largest individual payments subject to

offset and therefore the potential for a large dollar collection by fully offsetting these payments is greater.

### ***Strategies for Collecting TINs***

The implementation reports identified several strategies, practices, and methods which may be useful in the collection of TINs from vendors and individual recipients.

Agencies reported that the greatest success in collecting TINs from vendors was achieved during contract proceedings. Most agencies have developed internal policies and procedures that require vendors to submit TINs as a condition of awarding the contract. By establishing these policies and procedures, agencies can refuse to do business with vendors who fail to submit a TIN. Such refusal will ensure that agencies comply with 31 U.S.C. 7701(c), which requires agencies to collect TINs from each person doing business with that agency. It will also assist agencies in complying with 31 U.S.C. 3325 (d). The *Federal Acquisition Rule; Taxpayer Identifying Numbers* (FAR TIN) interim rule codified at 48 CFR Parts 1, 4, 13, 14, 15, and 52, provides agencies with contract clauses which require vendors to submit TINs as part of the application process and impose monetary penalties if such information is not supplied. These clauses are used by a small number of agencies and have been effective in the collection of TINs for these agencies.

Several agencies have developed contract clauses in agency supplemental acquisition rules, which specify that a proper invoice must include a valid TIN and EFT information. These clauses are used in support of the Prompt Payment rule at 5 CFR Part 1315, which requires electronic funds transfer (EFT) information and a TIN as part of a proper invoice. In such cases, an invoice is rejected and returned to a vendor if the vendor fails to submit this information and it was required to do so in the contract.

Agencies are also taking measures to inform vendors and individuals of the Federal Government's efforts and requirements to collect TINs from payment recipients. Agencies are making this information available by submitting letters to recipients, posting information on the Internet, and establishing points of contact with vendors. There were a number of agencies that planned to meet personally with vendors to convey the government's TIN and EFT requirements.

Certifying officials may forward TINs to the Internal Revenue Service (IRS) in order to validate the TIN with the IRS taxpayer record information. IRS currently has software available which allows it to identify an invalid TIN by matching a payee TIN with its taxpayer records. The implementation reports revealed that agencies were, in certain circumstances, receiving invalid TINs from payment recipients. In many cases, agencies were unaware that a TIN was invalid until it was submitted to FMS and sent through the TOP.

## SECTION-BY-SECTION ANALYSIS

### *Policy*

The Policy Directive explains that FMS will require payment vouchers to have TINs, except in specific limited circumstances described below.

### *Exceptions*

To ensure that agencies submit payment vouchers in a proper form, FMS is requiring that Federal payment vouchers submitted to Treasury include a valid TIN. FMS will not require a TIN on payment vouchers under the following circumstances:

- a) *Where an agency does not have the statutory or legal authority to require a Federal payee to submit a Taxpayer Identifying Number and the agency has no other reasonable means of obtaining it;*

Several agencies noted that certain court-ordered payments must be made, regardless of whether the paying agency had received a TIN. There may be other circumstances when agencies lack the legal or statutory authority to require TINs from certain payment recipients.

- b) *Where a Federal payment recipient is unable to obtain a Taxpayer Identifying Number;*

Agencies commented that certain payment recipients are incapable of obtaining TINs. For example, agencies noted that foreign companies, foreign visitors, and U.S. government agencies are unable to obtain a TIN and would therefore be unable to supply a TIN on a payment request.

- c) *Where the collection or provision of a Taxpayer Identifying Number has a detrimental effect on a law enforcement operation, a military operation, national security, or emergency relief efforts;*

Law enforcement agencies indicated the need, in certain circumstances, to protect the identity of certain individuals, such as the case for payments to the witness protection program, for undercover operations, or to informants. Law enforcement agencies may also have the need to pay an indigent fact witness to facilitate law enforcement.

FMS recognizes that payments for military operations, natural disasters, and emergencies must be made as soon as possible and therefore do not require the collection of TINs by an agency when the collection of such information could delay the payment process and endanger life or property.

- d) *Where the agency does not expect to make more than one payment, in an amount of \$200 or less, to the same recipient within a one-year period( i.e., the payment is non-recurring) and the cost of obtaining a TIN would be prohibitive; or,*

Several agencies noted that collecting TINs for one-time, small dollar payments is economically prohibitive, such as refunds for overpayments. FMS recognizes that it is not practicable to collect TINs when an agency is making non-recurring, small dollar payments and has accordingly established a *de minimus* amount of \$200 under which amount an exception would exist.

- e) *Where the Financial Management Service determines that the collection or provision of a TIN is not in the best interest of the Government.*

FMS reserves the right to provide exceptions, in addition to exceptions (a) through (d) of this Policy Directive, in circumstances where it determines that the collection or provision of a TIN cannot be performed due to a legitimate barrier.

#### **FOR MORE INFORMATION**

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All published rules, notices, and bulletins may be accessed via the Internet at <http://www.fms.treas.gov/debt/top.html>.



# TIN Policy Directive

## **POLICY**

*The Financial Management Service (FMS), as the disbursing official for the Department of the Treasury (Treasury), is responsible for determining that Federal payment vouchers certified to Treasury are in a correct form. As directed by 31 USC 3325(b) and Treasury instructions for payment certification, FMS requires that all Federal payment vouchers submitted to Treasury include a valid Taxpayer Identifying Number (TIN), except as described below.*

## **AUTHORITY**

**Statutes:** 31 U.S.C. 3325(a)

## **SCOPE**

This Policy Directive applies to all Federal payment vouchers certified to Treasury for payment.

## **DEFINITIONS**

### **Payment Voucher:**

Amounts certified for payment by the Electronic Certification System (ECS), on the Standard Form 1166, or through other appropriate means.

### **Taxpayer Identifying Number:**

A nine digit Employer Identifying Number or Social Security Number as defined in Section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109).

## **EXCEPTIONS**

FMS will not require TINs on payment vouchers under the following circumstances:

- a) Where an agency does not have the statutory or legal authority to require a Federal payee to submit a Taxpayer Identifying Number and the agency has no other reasonable means of obtaining it;

- b) Where a Federal payment recipient is unable to obtain a Taxpayer Identifying Number;
- c) Where the collection or provision of a Taxpayer Identifying Number has a detrimental effect on a law enforcement operation, a military operation, national security, or emergency relief efforts;
- d) Where the agency does not expect to make more than one payment, in an amount of \$200 or under, to the same recipient within a one-year period (i.e., the payment is non-recurring) and the cost of obtaining the Taxpayer Identifying Number is prohibitive; or,
- e) Where the Financial Management Service determines that the collection or provision of a TIN is not in the best interest of the Government.